

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Zachary Herman	Team: Squad #12	CCRB Case #: 201907732	<input checked="" type="checkbox"/> Force	<input checked="" type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Saturday, 08/17/2019 10:15 PM, Sunday, 08/18/2019 2:03 AM	Location of Incident: [REDACTED]	Precinct: 14	18 Mo. SOL 2/17/2021	EO SOL 10/4/2021	
Date/Time CV Reported Mon, 08/19/2019 10:45 AM	CV Reported At: Other City agency	How CV Reported: Phone	Date/Time Received at CCRB Thu, 08/29/2019 11:12 AM		

Complainant/Victim	Type	Home Address
[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]

Subject Officer(s)	Shield	TaxID	Command
1. SSA Roland Vilches	05157	905244	TB ATU
2. POM Randy Vasquez	09434	958146	TB ATU

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. POM Leixin Lu	03030	962559	TB ATU
2. POM Deochand Mathura	19343	962593	TB ATU

Officer(s)	Allegation	Investigator Recommendation
A.SSA Roland Vilches	Force: Sergeant Roland Vilches used physical force against § 87(2)(b) [REDACTED]	[REDACTED]
B.SSA Roland Vilches	Abuse: Sergeant Roland Vilches interfered with § 87(2)(b) [REDACTED]'s use of a recording device.	[REDACTED]
C.SSA Roland Vilches	Discourtesy: Sergeant Roland Vilches spoke discourteously to § 87(2)(b) [REDACTED]	[REDACTED]
D.SSA Roland Vilches	Discourtesy: Sergeant Roland Vilches spoke discourteously to § 87(2)(b) [REDACTED]	[REDACTED]
E.POM Randy Vasquez	Abuse: Police Officer Randy Vasquez threatened to arrest § 87(2)(b) [REDACTED]	[REDACTED]

Case Summary

This complaint was filed via telephone with 311 by § 87(2)(b) on August 19, 2019. The complaint was received at the CCRB on August 31, 2019.

On August 18, 2019, at approximately 2:03 a.m., § 87(2)(b) arrived at the § 87(2)(b) at § 87(2)(b) in Manhattan. She asked to see her § 87(2)(b)-year-old son, § 87(2)(b). PO Randy Vasquez of the Transit Anti-Terrorism Unit escorted § 87(2)(b) to a room where she spoke with § 87(2)(b). While inside the room, she attempted to take a picture of an informational poster on a wall, and Sergeant Roland Vilches of the Transit Anti-Terrorism Unit grabbed her phone out of her hand by pulling her arm back (**Allegation A: Force, unsubstantiated; Allegation B: Abuse of Authority**, § 87(2)(g)). Sgt. Vilches alleged stated, “We don’t take fuckin’ pictures in here. Ain’t no fucking recording in here.” (**Allegation C: Discourtesy**, § 87(2)(g)).

Sgt. Vilches took § 87(2)(b)’s phone from the room to the stationhouse lobby where he and § 87(2)(b) engaged in a verbal dispute. Sgt. Vilches stated, “I don’t give a fuck” (**Allegation D: Discourtesy**, § 87(2)(g)). PO Vasquez informed § 87(2)(b) that she had to leave the stationhouse or she would be arrested (**Allegation E: Abuse of Authority**, § 87(2)(g)).

The CCRB requested but was not provided video evidence from both the Precinct stationhouse and body-worn camera footage regarding this investigation. The video evidence requests were denied because § 87(2)(b) did not sign an unsealing order regarding video footage of § 87(2)(b).

Findings and Recommendations

Allegation (A) Force: Sergeant Roland Vilches used physical force against § 87(2)(b)
Allegation (B) Abuse of Authority: Sergeant Roland Vilches interfered with § 87(2)(b)’s use of a recording device.

On August 18, 2019, at approximately 2:03 a.m., § 87(2)(b) arrived at the Transit District One stationhouse at West 59th and Columbus Circle in Manhattan. § 87(2)(b) requested to see her § 87(2)(b)-year-old son, § 87(2)(b) who had been arrested. When she arrived at the stationhouse, PO Vasquez escorted her to the room where § 87(2)(b) who was handcuffed, was seated. PO Vasquez informed § 87(2)(b) that § 87(2)(b) would likely be held in juvenile detention overnight. § 87(2)(b) asked PO Vasquez where § 87(2)(b) would be held, PO Vasquez told her he did not know, and told her to take a picture of a poster on the wall that contained information about the address for a juvenile detention facility in the Bronx. § 87(2)(b) who was facing the poster, lifted her right hand which contained her cellphone, and used her left hand to hold the top part of her phone to secure it. As she made this gesture, Sgt. Vilches, who had entered the room without § 87(2)(b) seeing, grabbed § 87(2)(b)’s phone and pulled it back. This moved § 87(2)(b)’s right arm backwards, fully extending her right arm. Sgt. Vilches removed the phone from § 87(2)(b)’s hand. Sgt. Vilches loudly stated to § 87(2)(b) “We don’t take fuckin’ pictures in here. Ain’t no fucking recording in here.” § 87(2)(b) requested that Sgt. Vilches give her phone back multiple times in the lobby, for approximately two minutes, after this period of time, Sgt. Vilches returned her phone. § 87(2)(b) did not state whether her phone was locked or unlocked when Sgt. Vilches had it in his possession, and did not state she observed Sgt. Vilches do anything with her device other than hold it. § 87(2)(b) stated that in a conversation in the lobby, PO Vasquez denied that he had provided her with permission to take a photograph (BR01).

§ 87(2)(b) did not make § 87(2)(b) available to the CCRB to be interviewed.

Sgt. Vilches testified to the CCRB that while he was inside the stationhouse, he heard a woman screaming. He left his office and went to the juvenile room where the screaming came from. § 87(2)(b) stood with her back to the door. One of § 87(2)(b)'s arms was up, holding her cell phone in her hand. She was recording something on the wall in the room. Sgt. Vilches knew she was recording because he could see the cell phone screen. Also present in the room were § 87(2)(b) and several officers – PO Deochand Mathura, PO Leixin Lu, and PO Vasquez – none of whom were taking any action. Sgt. Vilches instructed § 87(2)(b) to stop recording. § 87(2)(b) refused and began to swear at Sgt. Vilches. Sgt. Vilches reached towards § 87(2)(b)'s arm, with his arm going over § 87(2)(b)'s arm, and grabbed the phone out of her hand. Sgt. Vilches did not recall if, when he grabbed § 87(2)(b)'s phone, he pulled her arm back. Sgt. Vilches then left the room and proceeded to the front desk. § 87(2)(b) followed him. Sgt. Vilches did not testify to any conversations he had with PO Vasquez before or after he removed § 87(2)(b)'s phone from her regarding PO Vasquez's authorization of § 87(2)(b)'s filming (BR04).

PO Vasquez spoke with § 87(2)(b) prior to her seeing § 87(2)(b) for approximately five minutes. PO Vasquez believed § 87(2)(b) was intoxicated because he smelled alcohol on her breath and on her § 87(2)(b) and because she was shouting and flailing her arms. After this conversation, PO Vasquez and § 87(2)(b) walked to the juvenile room. In the juvenile room, § 87(2)(b) asked PO Vasquez where § 87(2)(b) would be taken. PO Vasquez gestured to a flyer on the wall that specified a juvenile detention facility. § 87(2)(b) did not have a pen, and PO Vasquez told § 87(2)(b) she could take a picture of the flyer. § 87(2)(b) took out her phone and spoke to PO Vasquez for some time. PO Vasquez did not recall how long he spoke with § 87(2)(b) with her phone out. § 87(2)(b) then moved her phone to take a picture of the flyer. At that time, Sgt. Vilches entered the room and told § 87(2)(b) it was against the rules to record. Sgt. Vilches grabbed § 87(2)(b)'s phone out of her hand. Sgt. Vilches did not appear to have any difficulty removing § 87(2)(b)'s phone from her hand. § 87(2)(b) did not spin around as a result of Sgt. Vilches' action. Sgt. Vilches and § 87(2)(b) left the room. PO Vasquez did not see where they went, but believed they returned to the desk area of the stationhouse. PO Vasquez heard sounds of their conversation, but could not hear specifically what was said. PO Vasquez did not testify to any conversations he had with Sgt. Vilches regarding PO Vasquez's authorization of § 87(2)(b)'s recording inside the stationhouse (BR03)

The CCRB requested stationhouse footage and body-worn camera footage from the NYPD. The NYPD responded that because the case involved footage of a juvenile, a waiver was required. No waiver was obtained, and the NYPD did not provide the footage to the investigation.

NYPD Patrol Guide Procedure 221-01 governs the use of force by uniformed members of service. In determining whether the use of force is reasonable, members of the service should consider the nature and severity of the crime/circumstances, actions taken by the subject, duration of the action immediacy of the perceived threat or harm to the subject, members of the service, and/or bystanders, whether the subject is actively resisting custody, whether the subject is attempting to evade arrest by flight, the number of subjects in comparison to the number of members of service, the size, age, and condition of the subject in comparison to the member of service, the subject's violent history, if known, the presence of hostile crowd or agitators, and if the subject apparently under the influence of a stimulant/narcotic which would affect pain tolerance or increase the likelihood of violence. (BR06).

NYPD Patrol Guide Procedure 203-29 states that members of the public may not record inside police facilities. It stated that members of service may instruct civilians who are recording inside

police facilities to stop, and that if a civilian fails to stop, officers may take enforcement action per trespassing statutes (BR08).

§ 87(2)(b), § 87(2)(g)

§ 87(2)(b), § 87(2)(g)

Allegation (C) Discourtesy: Sergeant Roland Vilches spoke discourteously to § 87(2)(b)

As stated above, § 87(2)(b) alleged that Sgt. Vilches stated, “We don’t take fuckin’ pictures in here. Ain’t no fucking recording in here,” when he removed § 87(2)(b)’s phone from her hand (BR01).

In his testimony to the CCRB, Sgt. Vilches stated he did not say, “We don’t fucking record in here.” Sgt. Vilches denied using any profanity towards § 87(2)(b) inside the juvenile room (BR04).

PO Vasquez stated that he did not recall if Sgt. Vilches used any profanity when he instructed § 87(2)(b) to stop recording (BR02).

§ 87(2)(b), § 87(2)(g)

Allegation (D) Discourtesy: Sergeant Roland Vilches spoke discourteously to § 87(2)(b)

§ 87(2)(b) testified that while she and Sgt. Vilches walked towards the front of the stationhouse, she told Sgt. Vilches that PO Vasquez had authorized her to use her phone. Sgt. Vilches allegedly responded, “I don’t give a fuck” (BR01).

Sgt. Vilches denied using any profanity when speaking with § 87(2)(b) during their interaction (BR04).

PO Vasquez testified that when Sgt. Vilches and § 87(2)(b) left the room, he did not follow them immediately. He heard that they were having a conversation, but not specifically what they were saying (BR02).

§ 87(2)(b), § 87(2)(g)

Allegation (E) Abuse of Authority: Police Officer Randy Vasquez threatened to arrest

§ 87(2)(b)

In her testimony to the CCRB, § 87(2)(b) stated § 87(2)(b) and Sgt. Vilches argued in the lobby for six to eight minutes after the argument regarding the phone. During the argument, an unidentified officer brought Sgt. Vilches a body-worn camera, which he used to record the conversation. Sgt. Vilches informed § 87(2)(b) that § 87(2)(b) was not going to be transported anywhere and would be held at the stationhouse overnight; he directed her to return to the stationhouse at 8:00 a.m. Sgt. Vilches deactivated the camera and told PO Vasquez, "Get her out of here." PO Vasquez told § 87(2)(b) to leave or she would be arrested; he did not specify for what offense she would be arrested. § 87(2)(b) refused to leave until she was provided information about § 87(2)(b). She also requested Sgt. Vilches' shield number from PO Vasquez, and refused to leave until he provided it. PO Vasquez provided Sgt. Vilches' shield number. § 87(2)(b) eventually left the stationhouse (BR01).

Sgt. Vilches testified to the CCRB that eventually, after speaking with him and other officers in the lobby of the stationhouse, § 87(2)(b) left. Sgt. Vilches did not recall how long the officers spoke with § 87(2)(b). Sgt. Vilches did not recall issuing any instructions to any police officer to remove § 87(2)(b) from the stationhouse. Sgt. Vilches did not recall if any officer told § 87(2)(b) she would be arrested if she did not leave the stationhouse. Sgt. Vilches stated that § 87(2)(b) could have been arrested for trespassing or recording inside the stationhouse (BR04).

PO Vasquez testified to the CCRB that during the second conversation with Sgt. Vilches and § 87(2)(b) in the lobby, Sgt. Vilches did not instruct PO Vasquez to remove § 87(2)(b) from the stationhouse. PO Vasquez did not tell § 87(2)(b) if she did not leave she would be arrested. PO Vasquez stated that based on her behavior, § 87(2)(b) could have been arrested for disorderly conduct because § 87(2)(b) was yelling, cursing, flailing her arms, and, in PO Vasquez's estimation, causing a disturbance inside the stationhouse (BR03).

§ 87(2)(b), § 87(2)(g)

Civilian and Officer CCRB Histories

- § 87(2)(b)

○ § 87(2)(b) [REDACTED]

[REDACTED]

■ [REDACTED]

[REDACTED]

■ [REDACTED]

[REDACTED]

■ [REDACTED]

[REDACTED]

- ## Mediation, Civil and Criminal Histories

- _____

- Squad No.: 12

Squad Leader: Carlmais Johnson IM Carlmais Johnson May 28, 2020
Signature Print Title & Name Date

Reviewer: _____

Signature Print Title & Name Date